

UTAH AIR QUALITY BOARD MEETING
November 3, 2004
MINUTES

October and November Work Sessions: The Board held a two part working lunch session series at 12 noon prior to the October and November board meetings to provide members with information on how to determine Best Available Control Technology (BACT). The October presentation was by Regg Olsen and Rusty Ruby, DAQ Permitting managers. The November briefing was from Jana Milford of the University of Colorado and Environmental Defense. The slides for both presentations are attached. Both meetings were open to the public and attended by several citizens. No business was conducted.

I. Call to Order

John Veranth called the meeting to order at 1:35 p.m.

Board members present:

Jerry Grover	Dianne Nielson	Marcelle Shoop
Scott Hirschi	Richard Olson	Jeff Utley
Jim Horrocks	Wayne Samuelson	John Veranth
	Joann Seghini	Ernest Wessman
Executive Secretary: Richard W. Sprott		

Mr. Veranth introduced the representative from the County Public Health Organization, Mr. Lloyd Berentzen. Mr. Sprott added that Mr. Berentzen comes from the Bear River Health Department, Cache Valley, and had been involved with air quality for the past few years.

II. Dates of upcoming Air Quality Board Meetings:

Wednesday, December 1, 2004 and Wednesday, January 5, 2005.

III. Approval of Minutes of October 3, 2004 Board Meeting.

Mr. Veranth spoke with Fred Nelson concerning informational meetings that were held previous to the Board meetings. It was noted that these meetings should be included for the record and that no business was conducted.

Mr. Veranth pointed out a correction on the minutes where Kathy Van Dame is quoted on page five, line seven, where it states, "...settlement agreement is that this finding of technically infeasible..." should be changed to: "...this conclusion in the engineering review of technically infeasible..."

JoAnn Seghini moved to approve the minutes and Jeff Utley seconded. The Board approved unanimously.

IV. Final Adoption: Amend R307-110-12 and State Implementation Plan Section IX.C.8, the Carbon Monoxide Maintenance Plan for Ogden; and Amend R307-110-35 and State Implementation Plan Section X.E, the Vehicle Emissions Inspection and Maintenance Plan for Weber County. Presented by Jan Miller.

Ms. Miller noted that staff had responded to comments that had been received.

Mr. Veranth received no response from the audience or Board when he asked if there were any questions.

Mr. Wessman moved to adopt R307-110-12 and State Implementation Plan Section IX.C.8, the Carbon Monoxide Maintenance Plan for Ogden; and Amend R307-110-35 and State Implementation Plan Section X.E, the Vehicle Emissions Inspection and Maintenance Plan for Weber County.

Mr. Olson seconded and the Board approved unanimously.

V. Final Adoption: Revise R307-202, Areas Outside Davis, Salt Lake, Utah and Weber Counties: Open Burning; and Revise R307-303, Davis Salt Lake, Utah and Weber Counties: Open Burning. Presented by Jan Miller, Cheryl Heying, and Regg Olsen.

Ms. Miller stated that during the public comment period, staff had received and responded to comments. The first was from the Mayor of Herriman, who didn't like the regulation about when the public could burn. Staff explained to the Mayor that Salt Lake County and not DAQ determined the open burn window. There was a brief comment from Wasatch County about the new provision that prohibited burning on land being converted from agriculture to other use. The comment said it would be expensive to haul all of the debris to the landfill. DAQ felt there were other options like chipping and selling for mulch. The Hurricane Mayor and city council had other concerns, which DAQ addressed.

Ms. Heying noted that staff's intention was only to clarify language under R307-202-1 and also under R307-303-1. There is nothing in R307-202 and/or R307-303 that exempt any source from meeting the requirement of R307-401, which is the approval order (AO) process. Mr. Hirschi asked if R307-401 was effective off the Wasatch Front to which staff stated that it was. The requirements under R307-401 have to do with permitting and approval orders and PSD, which line up under the R307-400 series of the existing rule.

Individuals/companies may also have a requirement under R307-202 or R307-303, but that would be with the local fire official. This rule has to do with open burning and only deals with the permits received from local fire officials. If the local fire department requires a permit, then under R307-202 or R307-303, DAQ "issues" an air quality permit by rule. If these requirements are met, then the fire marshal can also give a permit.

Ms. Miller noted that getting an open burning permit from the county notifies the fire department and they can address safety concerns.

Mr. Grover asked if there were conflicts and facilities couldn't get a burn window because of the timing. Also, were there some approval orders that talk about opening burning?

Ms. Heying said that DAQ wants to clarify this rule to show that there are separate requirements. From the questions that ATK Thiokol had asked, ATK would be subject to the approval order conditions. Some of the confusion lies at what point does R307-401 come into R307-202 or R307-303 as they exist now. Companies get an approval order that deals with air quality. If an opening-burning permit is required, DAQ lines out the criteria for the state fire marshal or the local official. For example, a facility such as Hill Air Force Base has an

approval order. If Hill wants to open burn, then that would be covered under the criteria listed under R307-202 or R307-303, provision six, permissible burning with an opening burning permit from the local government. Under the open burning permit rules, DAQ basically specifies under which conditions the local fire department or authority can issue a permit. Those should not conflict with provisions under any approval order.

Mr. Sprott noted that staff had reviewed a good number of approval orders during the clarification of this rule making, and ascertained that there was no conflict. In reference to Mr. Grover's question, there were no permit conditions that conflicted with the new rules and they are intended to work side by side and compliment each other. As for Ms. Heying's example, Hill Air Force Base may have nothing that addresses open burning in their AO because they don't do it on a routine basis. What they would do is go to the new R307-303 which applies to the nonattainment area and they can use the permit by rule portion without having to come in and do the AO process. Some enterprises, such as ATK, have a couple of different situations where they are currently operating under the open burning provision only. In other cases, they are operating under their AO. The concept is to keep the permits separate, do what's in the AO and that may add some additional requirements and conditions that will be applicable in the open burning R307-202 or R307-303. That is how it is supposed to operate.

Mr. Hirschi asked about the 30-day open burning period where it talks about the dates that could be established by the local government. If understood correctly, it did not change the present regulation.

Ms. Miller replied that it did change. Washington County and St. George wanted the spring period extended earlier because the season started earlier in southern Utah. The burn period used to be March 1 to May 30, now it is February 1 to May 30.

Mr. Hirschi said he called St. George out of curiosity and asked what their 30-day burn date was. They claimed that it expired on October 15, so how could a 30-day period expire on October 15?

Ms. Miller replied that the current rule says September 15 through October 30. Complaints came from the state fire marshal because the closed fire season runs from June 1 – October 31. The statute is also clear that the fire marshal has the option to change the closed fire season at different times and places. So that is why it says an individual could burn between October 1 and November 30, if the state fire marshal allows it. So we shortened it on the fall and lengthened it on the spring.

In answer to Mr. Grover's question about controlled burns, Ms. Miller said that controlled burns fell under R307-204, Smoke Management Rule. Land managers, whether federal, state or private, submit plans in advance and then get prior approval.

Ms. Miller explained that the open burning rule covers both the individual homeowner who wants to burn their leaves in the fall and industrial enterprises. Staff put the sentence in the very first paragraph so the average reader could figure out where they should be looking for the rule. What's in the exclusions language is almost straight out of the statute. Normally statutory language is not put in the rule.

Ms. Heying said that to go through and list all of the exclusions, and if it is not worded correctly, may lead people to believe that although they have a permit, they are entirely excluded from the conditions under the rule. Certain kinds of activities may require both.

Mr. Grover stated that from a practical application, he wanted to make sure that the public understands clearly what applies and what doesn't. Do individuals go to the fire marshal or DAQ, and who enforces the rule?

Ms. Miller explained that DAQ gives a presentation on open burning rules to the local fire chief association that meet once or twice a year.

Ms. Heying noted that staff had been in this process for six months trying to find the best-crafted language. This was the most straight-forward way to accomplish the goal of meeting the requirements. It's the ATK's that are doing open detonation of hazardous waste and falling within these certain requirements.

Susan Jew, Director of Environmental Services, ATK Thiokol, addressed the Board and expressed concerns how the change would affect the company. She then reviewed the procedures under which both locations functioned. The company owns the rocket motor manufacturing facilities at Baucus, formerly known as Hercules and also the Thiokol facility at Promontory in Box Elder County. Both facilities open burn waste explosives for disposal in association with the manufacturing process. The handling of the materials is of concern because some of the materials are more stable than others. Both facilities agreed either the clearing index system in the opening burning rule or the approval order system would be the right way to be regulated.

Baucus, in the Salt Lake valley, has an approval order. The AO contains detailed restrictions about what kinds of waste and quantities of materials can be burned under the red/green burn system, it doesn't address the clearing index. It was assumed that the clearing index in the open burn rule was pre-empted by the approval order. At Baucus, the change would put the facility under the clearing index system, which is more restrictive than the red/green burn system. This would then involve the West Valley Fire Department. The company didn't feel that the fire department was the right group to intercede between air quality concerns and explosive safety.

Mr. Utley asked how the rule change would affect Baucus. Ms. Jew replied that it would depend on what the company could work out with the West Valley Fire Department.

Mr. Utley commented that the company's concern then was the instability of the explosives and the need for disposal, and not waiting for the clearing index.

Ms. Jew responded that wastes have an unusual and highly variable mix of ingredients. What is put into a rocket motor is well defined and nothing unexpected. Waste materials have extraneous materials added and that composition can affect the sensitivity. There is a history at Baucus of having materials in storage for extended periods of time. The sensitivity characteristics have changed and when the facility intended to burn them, they detonated.

Ms. Jew went on to explain that Promontory was located in a remote part of northern Utah. The facility burns under the permit provisions in the open burning rule and has not had an approval order for that operation.

Mr. Hirschi commented that the facility was burning year round, yet operated under the open burning provision, which had certain windows for burning.

Ms. Jew replied that the Air Quality Board allowed the facility to get a variance because of the sensitivity of the material.

Mr. Rod Smith, ATK Thiokol, said the variance did not apply to the window. Promontory was allowed to conduct open burning under the open burn provision. The facility was disposing of highly explosive and hazardous materials in a remote location under the clearing index with the proper authorization from the local fire marshal.

Mr. Grover asked if ATK had a RCRA (Resource Conservation and Recovery Act) permit as well.

Ms. Jew answered yes. Both facilities are in the process of obtaining a RCRA permit but had not yet completed the permit process. The RCRA permit will provide very detailed restrictions on the quantities, the operations, and types of wastes that are burned. It doesn't necessarily address the clearing index or PM10 concerns.

Ms. Heying said that the RCRA permit would be very specific for air contaminants based on risk based analysis. It wouldn't address any standards under PM10, PM2.5 or any of the clearing indices or the SIP requirements

Mr. Veranth commented that there is a mixing of apples and oranges into one rule. In the context of Baucus, we simply exclude burning of energetic material with an approval order where you have detailed engineering review of the process and can put in the appropriate stipulations of about amounts and times and rates and all that. It seems that this could be accommodated if we take the energetic materials out of burning weeds and put it where it belongs in terms of an engineered industrial process. He asked Mr. Fred Nelson, Attorney General's office, if it could be considered excluding energetic materials if that was added to the permissible exclusions? Would that be a substantive change and would that require new public comment?

Ms. Miler responded that if the Board did not want to adopt it today, then this filing would expire by the end of the month. Staff would then start over and go through the public comment process again.

Mr. Nelson replied that he thought that it would be a change. There is confusion on what exclusions are. The way the rule is set up is based on statute. The statute specially says the Air Quality Board has no authority to regulate those exclusions under R307-202-2. Those exclusions are there because the statute specifically prohibits the Board from regulating them. The next section talks about general prohibitions, you are prohibiting generally those kinds of activities. The next section is on permissible burning without a permit. With the exclusions already gone, it states which activities the Board can regulate, like permissible burning without a permit. It may be better to put that kind of a provision in there. The Board can say it's permissible to burn, without an open burning permit, if you are covered by an approval order. The next section requires a permit. The Board says you can open burn in these circumstances if you get a permit from the local health department or from the Board. Wherever you want to put it, it does constitute a substantive change. I don't know whether that would solve this problem. The staff will have to take a look at it.

Mr. Veranth suggested that the staff and the key stakeholders, like the West Valley Fire Department, and ATK meet and see if there are any reasons why the existing approval order isn't adequate. ATK could put that in as an R307-303-4, saying that if there is an approval

order, they could burn without a specific permit. Are there others that have opening burning approval orders?

Ms. Heying said that there are approval orders that allow facilities to burn hazardous waste materials and explosive materials, but it still may require an open burning permit under R307-202 or R307-303.

Mr. Veranth noted that there was a big issue of open burning and open detonation where facilities were doing the demilitarization of missiles. The Board needs a clear definition of what an energetic material is as distinguished from biomass.

Ms. Nielson also asked that the staff take a look at the approval orders. Maybe there ought to be some language within the approval order that specifically says there are times and constraints under which you can manage these materials.

Mr. Hirschi emphasized that any modifications should reinforce the fact that they still need to deal with the local authority as far as burn authority.

Ms. Jew said that had been the practice at Baucus, ATK had always notified the fire department immediately prior to a burn, but had not sought a permit or approval. Also the Promontory facility in Box Elder County had the situation where the county had its own opening burning regulations and the facility was restricted from burning on Sundays, Mondays and certain times of day.

Mr. Hirschi added one last point. It seems there is no way the Board should or could exclude the local fire authorities from this process. There has been some suggestion that perhaps they would be excluded.

Mr. Wessman motioned to refer back to staff for further work. Staff needs to discuss with stakeholders to resolve the issue, particularly the burning of energetic materials and other issues that have come up today.

Mr. Samuelson seconded the motion and the Board approved unanimously.

V. Informational Items

A. Remote Sensing Van: Presented by Joe Thomas and Cheryl Heying.

Mr. Thomas explained that the remote sensing device measures and records exhaust emissions from vehicles as they drive by. In May 2004, Utah County Health Department loaned the unit to Division of Air Quality (DAQ) to evaluate the potential contribution of light duty vehicle emissions in Cache County. With the help of Bear River Health Department and Utah State University, DAQ was able to analyze roughly 20,000 vehicles. Earlier this year, Utah County terminated its remote sensing program and disclosed to DAQ their intentions to sell the unit and asked if DAQ was interested in purchasing it. Acquiring this unit would give DAQ the ability to help assist communities in evaluating vehicle emissions and to better understand the potential contribution of vehicles to regional pollution levels. In order for DAQ to ensure the purchase of this unit is consistent with state policy, prior consultation was needed from the Utah Legislature. With approval, DAQ made a purchase offer to Utah County Health Department and is awaiting their response. Upon acquisition, a second remote

sensing study will be conducted this winter in Cache valley to determine the seasonal difference in emissions.

- B. Compliance.** No questions.
- C. HAPS Compliance.** No Questions.
- D. Monitoring:** Presented by Bob Dalley

Mr. Dalley reported that the Wood Burn Control/Chose Clean Air had begun for the winter season, November 1 to March 1.

The graphs for September and October were reviewed. On the graphs, particulate matter monitoring results were shown in red for September and blue for October. The high wind event in October also affected PM10. He then reviewed the three-year ozone summary, which showed a decrease.

Ms. Nielson asked if there was data that had been flagged and what was the status in terms of EPA consideration.

Mr. Dalley explained that there was flagged data, which showed higher ozone and PM10. Documentation had been provided as part of the flagging process. EPA had concurred with some of the flagged data, and not with others. There is PM10 data that EPA has not concurred with yet.

Mr. Veranth asked about the high ozone days that were associated with forest fire and smoke incursions that happened two summers ago and if that was included in the list.

Mr. Dalley responded that there was flagged data within the 3-year average that EPA had not yet concurred with. As it was flagged, it was not included in the average.

Ms. Nielson noted that right now the data was not impacting the determination of attainment. But if EPA comes back and makes a different determination, then DAQ may have to go back and do more evaluation.

Mr. Dalley further noted that the flagged numbers did not change the fourth highest value. Looking over the total impact, it would not put Utah into a nonattainment situation. EPA has a certain time period to concur or not concur.

Meeting adjourned: 2:50 pm